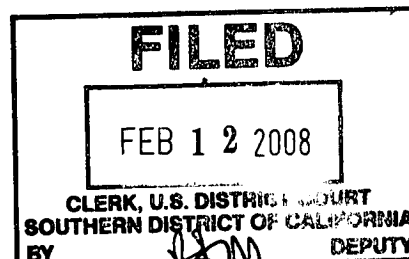


KAREN P. HEWITT
United States Attorney
CHRISTOPHER M. ALEXANDER
Assistant United States Attorney
California State Bar No. 201352
United States Attorney's Office
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101
Telephone: (619) 557-7425



Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 07cr3054-IEG

Plaintiff,)

v.)

JORGE ORTEGA-ROCHA (1),)
ALBERTO MINOR-OLVERA (2),)

Defendants.)

**STIPULATION AND JOINT MOTION
FOR RELEASE OF MATERIAL
WITNESS AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Christopher M. Alexander, Assistant United States Attorney, and defendant JORGE ORTEGA-ROCHA, by and through and with the advice and consent of defense counsel, Joseph McMullen, Esq., that:

1. Defendant agrees to enter into this stipulation and to participate in a full and complete inquiry by the Court into whether Defendant knowingly, intelligently, and voluntarily entered into it. Defendant agrees to plead guilty to Count 2 of the Indictment charging Defendant with a non-mandatory minimum count of Transporting an Illegal Alien in the United States, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and (v)(II).

2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the United States not later than noon on February 8,

1 2008.

2 3. Defendant agrees to plead guilty to Count 2 pursuant to the plea agreement on or
3 before 5:00 p.m. on February 12, 2008.

4 4. Material Witnesses Jose Rosario Vega-Felix, Jose Vladimir Meza-Silvas, and Alfredo
5 Silvas-Cardenas:

- 6 a. Are aliens with no lawful right to enter or remain in the United States;
7 b. Entered or attempted to enter the United States illegally on October 27, 2008;
8 c. Were found in a vehicle in which Defendant was the driver and that
9 Defendant knew or acted in reckless disregard of the fact that the individuals
10 were aliens with no lawful right to enter or remain in the United States;
11 d. The aliens were paying money to Defendant's employers to be brought into
12 the United States illegally and transported illegally to their destination
13 therein; and,
14 e. May be released and remanded immediately to the Department of Homeland
15 Security for return to their country of origin.

16 5. After the material witnesses are ordered released by the Court pursuant to this motion,
17 if Defendant does not plead guilty to the charge set forth above, Defendant agrees that in any
18 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
19 attack, that:

- 20 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
21 substantive evidence;
22 b. The United States may elicit hearsay testimony from arresting agents
23 regarding any statements made by the material witnesses provided in
24 discovery, and such testimony shall be admitted as substantive evidence
25 under Fed. R. Evid. 804(b)(3) as statements against interest of unavailable
26 witnesses; and,
27 c. Understanding that under Crawford v. Washington, 541 U.S. 36 (2004),
28 "testimonial" hearsay statements are not admissible against a defendant

1 unless defendant confronted and cross-examined the witness who made the
 2 "testimonial" hearsay statements, defendant waives the right to confront and
 3 cross-examine the material witnesses in this case.

4 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 5 immediate release and remand of the above-named material witnesses to the Department of
 6 Homeland Security for return to their country of origin.

7 It is STIPULATED AND AGREED this date.

8 Respectfully submitted,

9 KAREN P. HEWITT
 United States Attorney

10 Dated: 2/12/08

Christopher M. Alexander
 11 CHRISTOPHER M. ALEXANDER
 Assistant United States Attorney

12 Dated: 2-6-08

Joseph McMullen
 13 JOSEPH MCMULLEN
 Defense Counsel for
 14 JORGE ORTEGA-ROCHA

15 Dated: 2-6-08

Jorge Ortega Rocha
 16 JORGE ORTEGA-ROCHA
 Defendant

17 **ORDER**

18
 19 Upon joint application and motion of the parties, and for good cause shown,

20 **THE STIPULATION** is admitted into evidence, and,

21 **IT IS ORDERED** that the above-named material witnesses be released and remanded
 22 forthwith to the Department of Homeland Security for return to their country of origin.

23 **SO ORDERED.**

24 Dated: 2/12/08

[Signature]
 25 United States Magistrate Judge

26
 27
 28 Stipulation and Joint Motion for Release of
 Material Witnesses And Order Thereon in
 United States v. Ortega-Rocha